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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 MICHAEL A. GRESHAM,

Case No. 3:19-cv-00211-MMD-WGC

7 Plaintiff,

ORDER

8 v.

9 JAMES DZURENDA, *et al.*,

10 Defendants.

11 *Pro se* Plaintiff Michael A. Gresham brings this action under 42 U.S.C. § 1983.
12 Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of
13 United States Magistrate Judge William G. Cobb (ECF No. 43), recommending the Court
14 dismiss this action without prejudice for failure to prosecute and because of Plaintiff’s
15 failure to update his address in compliance with the Local Rules—and deny Defendants’
16 pending motion for summary judgment (ECF No. 38) as moot. Plaintiff had until
17 September 6, 2021, to file an objection. To date, no objection to the R&R has been filed.
18 For this reason, and as explained below, the Court adopts the R&R, and will dismiss this
19 case for failure to prosecute and failure to update address.

20 The Court “may accept, reject, or modify, in whole or in part, the findings or
21 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
22 fails to object to a magistrate judge’s recommendation, the Court is not required to
23 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*
24 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,
25 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
26 recommendations is required if, but *only* if, one or both parties file objections to the
27 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
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1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there is no objection, the Court need not conduct de novo review, and is
4 satisfied Judge Cobb did not clearly err. Here, Judge Cobb recommends dismissing this
5 case for failure to prosecute and failure to update address even though Judge Cobb gave
6 Plaintiff an extra 30 days to respond to Defendants’ motion for summary judgment after it
7 was returned to the Court as undeliverable. (ECF Nos. 41, 43.) The Court agrees with
8 Judge Cobb. Having reviewed the R&R and the record in this case, the Court will adopt
9 the R&R in full. And while the R&R was also returned to the Court as undeliverable
10 because Plaintiff was apparently discharged (ECF No. 44), as noted, Judge Cobb already
11 gave Plaintiff an additional opportunity to respond after the motion for summary judgment
12 was returned as undeliverable (ECF No. 41). Moreover, in the advisory letter mailed to
13 Plaintiff at the outset of this case, the Clerk of Court warned Plaintiff he must keep his
14 address updated or face dismissal under the Local Rules. (ECF No. 2 at 1.) Plaintiff later
15 filed a change of address in this case, so the Court infers he is aware of the requirement.
16 (ECF No. 13.) In sum, the Court will dismiss this case in its entirety for failure to prosecute
17 and failure to update address.


18 It is therefore ordered that Judge Cobb’s Report and Recommendation (ECF No.
19 43) is accepted and adopted in full.

20 It is further ordered that the pending motion for summary judgment (ECF No. 38)
21 is denied as moot.

22 It is further ordered that this case is dismissed, in its entirety, without prejudice, for
23 failure to prosecute and failure to update address.

24 The Clerk of Court is directed to enter judgment accordingly and close this case.

25 DATED THIS 13th Day of September 2021.

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27 _____
28 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE